



**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OFFICE OF THE ZONING ADMINISTRATOR**

March 9, 2021

**Via Emailed PDF**

Alexandra Wilson  
Sullivan & Barros, LLP  
1155 15<sup>th</sup> Street, NW - Suite 1003  
Washington, DC 20005

**Re: 1036-1038 Newton Street, NE (Square 3882, Lots 19-20).**

Dear Ms. Wilson:

This letter confirms the discussion you had with zoning technician Brittany Bullock on February 2, 2021 regarding a proposed project at 1036-1038 Newton Street, NE. You are proposing to combine the existing lots (Lots 19-20) into one lot (collectively known as the “**Property**”) and construct a new building (the “**Building**”) with ten (10) residential dwelling units (the “**Project**”).

**Floor Area Ratio**

The subject MU-4 zone permits a total Floor Area Ratio (“FAR”) of 2.5 pursuant to G § 402.1. An IZ development in the MU-4 zone is permitted to have an FAR of 3.0. According to the plans, the proposed Project is providing an FAR of 2.86 (14,600 square feet of gross floor area and a lot area of 5,100 square feet). The Project is an IZ project. Accordingly, the Project complies with the FAR requirements of the MU-4 zone.

**Building Height**

The maximum permitted building height, not including the penthouse, in the MU-4 zone shall be fifty feet (50 ft.), pursuant to G § 403.1. There is no story limit in the MU-4 zone. The plans show that the building height is forty-seven feet and two inches (47 ft. 2 in.) from the BHMP to the top of the parapet. The building height was measured in accordance with B § 307.1. The window wells at the front of the building are limited to a measurement of four feet (4 ft.) perpendicular to the building façade and are therefore considered exceptions to grade pursuant to B § 100.2. Accordingly, the Project complies with the height requirements of the MU-4 zone.

### **Penthouse Requirements**

You are proposing a penthouse. Pursuant to G § 403.3, the height of a penthouse in the MU-4 Zone is limited to twelve feet (12 ft.) in height and one (1) story. The penthouse and any other roof structures such as guardrails must be set back a distance equal to their respective heights from the front and rear of the Property. The structures are also required to have a 1:1 setback from an its side wall if its adjacent to a property that has a lower or equal permitted matter-of-right building height. The west side of the Subject Property is adjacent to a building in the R-2 zone, which has a lower matter-of-right building height; therefore, the proposed penthouse must be setback at a 1:1 ratio from the west side walls of the building. A ½:1 setback is required from any side of the building since it is not adjoining another building; therefore, the proposed penthouse must be setback at a ½:1 ratio from the east side walls of the building, as it does not adjoin another building.

According to the plans, you are proposing penthouse habitable space and a stair enclosure for access to the roof. I have issued guidance on how the penthouse height should be measured (See Exhibit B- Roof Membrane and Building Height). The height of the penthouse is taken from the top of the structural roof (Top of Slab) to the top of the penthouse wall. That overall height is eleven feet and six inches (11 ft. 6 in.). The penthouse will be set back at least eleven feet and six inches (11 ft. 6 in.) (1:1 ratio) from the front, rear, and west side walls of the roof. It will be set back at least five feet and nine inches (5 ft. 9 in.) (1/2:1) from the east side wall of the roof.

Pursuant to C § 1503.1(c), the penthouse area will not count against FAR so long as it has a floor area ratio of less than four-tenths (0.4). The proposed penthouse FAR is below 0.4. Accordingly, it will not count against the total FAR for the Building.

### **Lot Occupancy**

The maximum permitted lot occupancy for residential buildings in the MU-4 zone is sixty percent (60%), and seventy-five percent (75%) for IZ developments, pursuant to G § 404.1. The attached plans show that the Project has a proposed lot occupancy of seventy-five percent (75%)—or a Building footprint of 3,825 square feet. Accordingly, the Project complies with the lot occupancy requirements of the MU-4 Zone.

### **Rear Yard Setback**

A building in the MU-4 Zone is required to provide a fifteen-foot (15 ft.) rear yard. The plans show a rear yard of fifteen feet (15 ft.) Accordingly, the Project complies with the rear yard requirements of the MU-4 Zone.

### **Side Yard Setbacks**

A side yard is not required in the MU-4 zone but if provided it must be two inches (2 in.) wide for each one foot (1 ft.) of height of building but no less than five feet (5 ft.) (G § 406.1). You are providing two side yards, which are set into the building footprint from the side property lines in accordance with Section G-406.3, and are not considered courts. The eastern side yard measures ten feet and two inches (10 ft. 2 in.) and the western side yard measures seventeen feet and seven inches (17 ft. 7 in.). Based on a building height of forty-seven feet and two inches, the minimum side yard requirement is eight feet (8 ft.). Even if you maximized the proposed building height at fifty feet (50 ft.), the maximum required side yard width would be 8.33 feet. Accordingly, the Project complies with the side yard requirements of the MU-4 Zone.

### **Parking**

You have asked for my determination regarding any potential parking requirement. The parking requirement may be reduced by fifty percent (50%) if the property is within one-half mile of a Metrorail Station (C § 702.1). The Property is within one-half mile of the Brookland-CUA Metrorail station; therefore, any parking requirement may be reduced by fifty percent (50%).

In the MU-4 Zone, the parking requirement for a multi-family residential building is one space for every three (3) units over (4). Ordinarily, the parking requirement for a 10-unit multifamily building is 2 spaces. That may be reduced by 50% since it is within 0.5 mi. of a Metrorail station, for a total requirement of 1 parking space. According to the plans, you are providing one parking space; therefore, the Project complies with the parking requirements of Subtitle C.

### **Bicycle Parking**

Pursuant to C § 802.1, all residential uses with eight (8) or more dwelling units shall provide one (1) long-term bicycle parking space per three (3) units and one short-term bicycle parking space per 20 units. For a residential development with 10 units, the requirement would be 3 long-term spaces and 1 short-term space. You are providing 3 long-term spaces and 1 short-term space. Accordingly, the Project meets the bicycle parking requirements.

### **Green Area Ratio**

The minimum green area ratio in the MU-4 zone is 0.3. The plans note that the proposed GAR is 0.3.

### **Summary**

Based on the attached plans, I find that the proposed Project complies with the General Zoning Requirements and the specific MU-4 zone requirements—other than the area requiring BZA relief. The Project is otherwise permitted as a matter-of-right.

When you file the plans for a building permit, I will approve drawings consistent with the plans attached to this letter.

Please feel free to contact me if you have any questions.

Sincerely, Matthew Le Grant  
Matthew Le Grant  
Zoning Administrator

Attachment: Plan Set dated 2-17-21

Reviewer: Brittany Bullock

**Disclaimer:** This letter is issued in reliance upon, and therefore limited to, the questions asked, and documents submitted in support of the request for a determination. The determinations reached in this letter are made based on the information supplied, and the laws, regulations, and policy in effect as of the date of this letter. Changes in the applicable laws, regulations, or policy, or new information or evidence, may result in a different determination. This letter is **NOT** a final decision of the Zoning Administrator that may be appealed under Section Y-302.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations), but instead is an advisory statement of how the Zoning Administrator would rule on an application if reviewed as of the date of this letter. Therefore, this letter does **NOT** vest an application for zoning or other DCRA approval process, which may only occur as part of the review of an application submitted to DCRA. This determination is limited to an interpretation of the Zoning Regulations, and I am not making any representations as to Building Code requirements or other D.C. laws.